

REMARKS:

In the outstanding Office Action, the Examiner rejected claims 1-10. New claim 11 is added. No new matter is presented. Thus, claims 1-11 are pending and under consideration. The rejections are traversed below.

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 1-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,117,355 (McCarthy).

McCarthy provides information of accumulated cash value to a consumer only at or through a central station and only at pre-selected intervals (see, col. 1, lines 35-41 and col. 6, lines 48-55). For example, in McCarthy, accesses to consumer accounts are authorized at or near a prescribed date, such as birthdays, etc. (see, col. 5, lines 44-55). That is, McCarthy does not flexibly allow the consumer to access or be notified of the accumulated cash value.

The Examiner states that notifying the customer of redeemable products or services, using diagrams for representing variation of a variable in comparison with other variables, changing a certain calculation at random and reducing the amount of the discount if redeemable are well known. The Applicants respectfully traverse the Examiner's statement and demand the Examiner to produce authority for the statement. The Applicants specifically point out the following errors in the Examiner's action.

First, the Examiner uses common knowledge ("well-known") evidence for the rejection. As explained in the M.P.E.P.,

any facts so noticed should... server only to "fill in the gaps" in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection is based.

M.P.E.P. § 2144.03

Second, the noticed fact is not considered to be common knowledge or well-known in the art. In this case, the limitation is not of notorious character or capable of instant and unquestionable demonstration as being well-known. Instead, this limitation is unique to the present invention (see, M.P.E.P. § 2144.03(A) (the notice of facts beyond the record which may

be taken by the Examiner must be “capable of such instant and unquestionable demonstration as to defy dispute”).

Third, there is no evidence supporting the Examiner’s assertion (see, M.P.E.P. § 2144.03(B) (“there must be some form of evidence in the record to support an assertion of common knowledge”).

Fourth, the Examiner appears to be basing the rejections, at least in part, on personal knowledge. The Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such assertion with an affidavit when called for by the Applicant. The Examiner is called upon to support such assertion.

Further, even if the Examiner’s assertion and rejection based on common knowledge is valid, the present invention is distinguishable as discussed below.

The present invention enables a customer to be notified of accumulated points based on a type of service selected by a customer. For example, as illustrated in FIG. 27A, the present invention allows a customer to select a type of service and provides information pertaining to the selected service type at the request of the customer.

Independent claims 1 and 2 recite that the present invention includes, “instantaneously notifying the customer of cumulative points” in accordance with “the type” (claim 1) or “a range” (claim 2) of service selected by the customer.

McCarthy does not teach or suggest the claimed point management system that includes, “instantaneously notifying the customer of cumulative points” based on “the type” (claim 1) or “a range” (claim 2) of service selected by the customer as recited in claims 1 and 2.

It is submitted that independent claims are patentable over McCarthy.

For at least the above-mentioned reasons, claims depending from the independent claims are patentably distinguishable over McCarthy. The dependent claims are also independently patentable. For example, claim 5 recites that “the point information includes services corresponding to the customer’s cumulative points provided by the point accumulation means.” McCarthy does not teach or suggest these features of claim 5.

Therefore, withdrawal of the rejection is respectfully requested.

NEW CLAIM:

New claim 11 is added to recites, "associating services offered with corresponding points available for the services and classifying the services offered based on types thereof." The present invention then extracts "information of a point in response to selection of a type of service based on the classification" and provides "cumulative issued points usable for the selected type of service responsive to a request from a customer."

McCarthy is limited to providing the consumer's account number and a particular date to a central system, calculating, at the central system, cash value of the consumer account and providing for each consumer account associated with that particular date (i.e., birthdate) to the customer (see, col. 5, lines 44-55).

Therefore, it is respectfully submitted that new claim 11 is patentably distinguishable over McCarthy.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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